

February 6, 2006
OPINION NUMBER 05-0378

90-A-2 PUBLIC FUNDS – Loan, Pledge or Grants
La. Const. Art. VII, Sec. 14

Hon. William B. Daniel, IV
State Representative
District 68
17170 Perkins Road
Baton Rouge, Louisiana 70810

The City-Parish of Baton Rouge may pay the travel expenses for an out-of-state job interviewee provided the City-Parish has a legal obligation to do so, and the benefit to the City-Parish is equivalent to the value expended.

Dear Representative Daniel:

You requested an Attorney General's opinion regarding the legality of the use of public funds to pay for certain travel expenses. Specifically, you ask whether the City-Parish of Baton Rouge is prohibited by the state constitution from paying travel expenses for an out-of-state job interviewee. You indicate that the position in question would be unclassified.

The issues presented by your request must be addressed in light of the provisions of Article VII, Section 14 of the Louisiana Constitution of 1974, which contains the constitutional standard for the lawful use of public funds and property. La. Const. Art. VII, Sec. 14 generally prohibits the state and its political subdivisions from loaning, pledging or donating public funds, assets or property to persons, associations or corporations, public or private.

This office has long recognized that caution must be exercised in the expenditure of public funds. Historically, the Attorney General has followed the Louisiana Supreme Court's interpretation of La. Const. Art. VII, Sec. 14, as set forth in *City of Port Allen v. Louisiana Municipal Risk*, 439 So.2d 399 (La. 1983), wherein the Court states: "...this Section is violated whenever the state or a political subdivision seeks to give up something of value when it is under no legal obligation to do so." The previous opinions of this office recognize that the requirement of a legal obligation to expend public funds or use public property is the threshold predicate for the constitutionality of an expenditure or use; but it is not, however, the only predicate. The expenditure must also be for a public purpose and create a public benefit proportionate to its cost. Attorney General's Opinion No. 90-63. See also: Attorney General's Opinion Nos. 02-0125; 01-0389.

The City-Parish of Baton Rouge can only pay the travel expenses of a job interviewee if there is a legal obligation to do so. Whether the opportunity to interview a particular individual provides a benefit to the City-Parish which is equivalent to the value expended is a factual determination that must be made by the City Parish on a case-by-case basis.

Trusting this adequately responds to your request, we remain

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: _____
KENNETH L. ROCHE, III
Assistant Attorney General

CCF, JR/KLR, III/jv

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Date Received:

Date Released: February 6, 2006

KENNETH L. ROCHE, III
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